UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ANTONIO PORTER,

Plaintiff,

ANSWER

-against-

16 Civ. 3589 (LDH) (LB)

N.Y.C. DEPARTMENT OF HOMELESS SERVICES, et al.,

Defendants.

--x

Defendant New York City Department of Homeless Services ("DHS")[1], by its attorney **ZACHARY W. CARTER**, Corporation Counsel of the City of New York, as and for their answer to the complaint, dated June 21, 2016, respectfully alleges as follows:

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "I(A)," of the Complaint, except admits that plaintiff self-identifies as set forth in this paragraph.

2. Paragraph "I(B)" names two individual defendants who were dismissed by order, dated August 2, 2016 (Dkt. No. 4). Thus, it appears that no response is required. To the extent that the Court finds that a response is required, defendant denies the allegations set forth in this paragraph.

3. Denies the allegations set forth in paragraph "I(C)," except admits that DHS has offices located at 33 Beaver Street, New York, New York 10004.

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[1] By order dated August 2, 2016 (Dkt. No. 4), the Court dismissed all claims against individual defendants Dr. Barry Protter and Jane Doe. Thus, the only remaining defendant is the "N.Y.C. Department of Homeless Services" ("DHS").

4. Denies the allegations set forth in paragraph "II," of the Complaint, except admits that plaintiff purports to invoke the jurisdiction of the Court as set forth in this paragraph.

5. Denies the allegations set forth in paragraph "III(A)," of the Complaint, except admits that plaintiff purports to proceed as set forth in this paragraph and that plaintiff was not hired at DHS.

6. Denies the allegations set forth in paragraph "III(B)," of the Complaint.

7. Paragraph "III(C)," of the Complaint is blank and makes no allegations. Thus, it appears that no response is required. To the extent that the Court finds a response is required, defendant denies the allegations set forth in this paragraph.

8. Denies the allegations set forth in paragraph "III(D)," of the Complaint except admits that plaintiff self-identifies as having schizoaffective disorder.

9. Denies the allegations set forth in paragraph "III(E)," of the Complaint, except admits that plaintiff applied for a position in the title of Special Officer with DHS, that as part of the standard application process for appointment to Special Officer plaintiff was given a psychological screening, and that plaintiff did not pass the psychological screening and was not hired at DHS.

10. Denies the allegations set forth in paragraph "IV(A)," of the Complaint, except denies knowledge or information sufficient to form a belief as to the truth of the allegations concerning the filing of a charge of discrimination with the United States Equal Employment Opportunity Commission ("EEOC") and respectfully refer the Court to what appears to be a right to sue letter, dated June 10, 2016, charge of discrimination case number 520-2016-02537.

11. Denies the allegations set forth in paragraph "IV(B)," of the Complaint, and respectfully refer the Court to what appears to be a right to sue letter, dated June 10, 2016, charge of discrimination case number 520-2016-02537.

12. Paragraph "IV(C)," of the Complaint is blank and makes no allegations. Thus, it appears that no response is required. To the extent that the Court finds a response is required, defendant denies the allegations set forth in this paragraph.

13. Denies the allegations set forth in paragraph "V" of the Complaint, except admits that plaintiff purports to proceed as set forth in this paragraph.

14. Denies the allegations set forth in paragraph "VI" of the Complaint, except admits that plaintiff purports to proceed as set forth in this paragraph.

AS AND FOR A FIRST DEFENSE:

15. The Complaint fails to state any claim upon which relief may be granted.

AS AND FOR A SECOND DEFENSE:

16. The Complaint is barred, in whole or in part, by the applicable statute of limitations.

AS AND FOR A THIRD DEFENSE:

17. The Complaint is barred, in whole or in part, by the failure to perform all conditions precedent to suit or to exhaust administrative remedies or both.

AS AND FOR A FOURTH DEFENSE:

18. At all times relevant to the acts alleged in the Complaint, defendant's actions were reasonable, proper, lawful, constitutional, made in good faith, and without malice and were in conformity with all applicable laws, rules, and regulations.

AS AND FOR A FIFTH DEFENSE:

19. Any damages sustained by plaintiff were caused by plaintiff's own negligent or otherwise culpable conduct.

AS AND FOR A SIXTH DEFENSE:

20. Any claim for damages is barred, in whole or in part, by the failure to mitigate damages.

AS AND FOR A SEVENTH DEFENSE:

21. An agency of the City of New York is not a suable entity and, thus, DHS must be dismissed from this case.

CONCLUSION

WHEREFORE, defendant respectfully requests that the Complaint be dismissed in its entirety, that the Court enter judgment for defendant, and that defendant be granted costs, fees, and disbursements together with such other and further relief as the Court deems just and proper.

Dated: New York, New York
December 7, 2016

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